

BRIAN SANDOVAL
Governor

STATE OF NEVADA

LEO DROZDOFF
Director



JASON KING, P.E.
State Engineer

**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES**

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Carson City, Nevada 89701-5250

(775) 684-2800 • Fax (775) 684-2811

<http://water.nv.gov>

January 30, 2012

Ladies and Gentlemen:

Re: Application 80700, Service list

As you are aware, an issue was raised during the January 24, 2012, pre-hearing conference that the participating parties are not receiving service of all documents submitted in this matter. The participating parties are also not sure of the correct service list to use.

When the State Engineer first noticed this matter for pre-hearing conference, the hearing officer included the Applicant and all Protestants on that notice. However, since that time some Protestants are now represented by legal counsel, some Protestants have had a single spokesperson appear for them, and other Protestants have indicated they intend to participate in a minimal manner in any administrative hearing. It was evident to the State Engineer's staff during the first pre-hearing conference, that many of the Protestants are unclear about the process of a formal administrative hearing.

In order to determine who will actually be fully participating during any administrative hearing, by fully participating the State Engineer means either putting on a case-in-chief or participating in cross-examination, the State Engineer by notice dated September 22, 2011, sent an Intent to Participate form to all of the Protestants and requested that they inform him if they intended to put on a case-in-chief. The Protestants were requested to return the Intent to Participate form to the Office of the State Engineer by January 2, 2012. Many did not return the actual form, but rather sent the State Engineer a letter indicating they intend to participate as a protestant. The reason for the State Engineer requesting this information is that we do not require service of process of all documentation on those who have no intention of participating in the administrative hearing. There is no reason to require fully participating parties to go to the time and expense of service of legal briefing, exhibits and related types of documents on parties who do not intend to fully participate. However, please be informed that any notice of hearing, interim order and ruling in this matter will be served on the Applicant and all Protestants; however, if a Protestant is represented by legal counsel or someone who indicated they are

representing a group of Protestants, as Mr. Jim Snyder indicated during the second pre-hearing conference, only legal counsel or the representative will be served. It is the responsibility of legal counsel or any representative to inform their clients or those they represent of any filings in this matter.

Based on the responses received to the Intent to Participate form, letters received, and appearances made at the January 24th prehearing conference, I have prepared a service list that I believe includes those who intend to fully participate in the hearing. For your information, I provide a summary of the information received and how this was used to create the service list.

The following Protestants indicated on the Intent to Participate form that they are **not** participating in the administrative hearing process: Bill Carlson, Nichol Merritt Ditch by Glenn Sciarani, Paul Sciarani, Sciarani Ditch by Paul Sciarani, and Settlemeier-Rosse Ranch Management, LLC by Jerry R. Rosse. However, please note, the State Engineer was informed at the January 24th pre-hearing conference that Settlemeier-Rosse Ranch Management, LLC is now represented by Linda Bowman, Esq. and will be participating as a party at any administrative hearing. The State Engineer will not require service of documents such as legal briefing on any of these parties. They will be kept informed of hearing dates, interim rulings and the final decision.

The following list shows the Protestants (right column) who are now represented by legal counsel or other designated representative (left column). Any party represented by legal counsel or a representative will only receive service of process through said legal counsel or representative.

Legal Counsel or Representative:

Don Springmeyer,
Christopher Mixson, Esq.
Wolf, Rifkin, Shapiro,
Schulman & Rabkin, LLP
3556 East Russell Road, Second Floor
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Karen Peterson, Esq.
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Carson City, Nevada 89702

Christopher Watson, Esq.
U.S. Department of the Interior
Office of the Solicitor
1849 C St., NW, MS 6513 MIB
Washington, DC 20240
George Benesch, Esq.

Applicant and Protestants:

National Fish and Wildlife Foundation

U.S. Board of Water Commissioners

U.S. Bureau of Indian Affairs

Lyon County

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Nevada Farm Bureau Federation
Doug Busselman
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Linda Bowman, Esq.
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Reno, Nevada 89510-0306

Walker River Paiute Tribe

Walker River Irrigation District

Mickey Mutual Ditch Company
G&H Mutual Ditch Company
Greenwood Mutual Ditch Company

Nevada Farm Bureau

Backtrack, LLC
Bale Counter Inc.
Berrington Custom Hay Hauling & Trans. Inc.
Damian Ltd
Garmsland Limited LLC
Gary G. Garms
Gary J. Garms
Gary M. Berrington
GDA Degree Inc.
High Sierra Garlic
Jackaroo LLC
Kari D. Garms
Peter A. Fenili
Settelmeyer-Rosse Ranch Management, LLC
Six-N Ranch, Inc
Straggler LLC
Toni J. Garms

Jim Snyder

Jim and Bunny Snyder

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P.O. Box 550
Yerington, Nevada 89447

Eddie R. and Theresa Snyder Trust
Eddie R. Snyder, Trustee
Eufrazia, LLC
LJ Land, Limited
Snyder Livestock Co.
Spragg-Woodcock Mutual Ditch Co.

Campbell Canal Co.
c/o Rife and Associates
David Sceirine, President
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Campbell Canal Co.

D & GW Ditch Co.
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D & GW Ditch Co.

Tunnel Ditch Co.
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Joseph Sceirine

Linda K. Rhodes

Linda K. Rhodes

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3320 Sandra Drive
Reno, NV 89503-3835

The left hand column is what I currently consider the official service list in this matter for parties filing the upcoming legal briefs. Any party sending anything to the Office of the State Engineer, that includes a letter, a legal brief, etc., needs to serve said document on all parties to this proceeding. In other words, service must be made on all parties on the left hand side of the above list. However, please be informed that the list could change and you should compare any new service list that may come from the Office of the State Engineer, for example, if another pre-hearing conference is scheduled or an interim order is issued, as the State Engineer may have updates to the list from the last time a service list was issued from this office. Any document served, including a letter, legal brief, etc. must have attached to it a Certificate of Service, which indicates who was served with the document.

If you are aware of any changes that need to be made to this service list, please bring them to my attention as soon as possible throughout the course of this proceeding. Thank you for your attention in this matter and if you have any questions, please contact me at (775) 684-2873.

Sincerely,

s/Tim Wilson, P.E.
Tim Wilson, P.E.
Hearings Officer

TW/jm
Attachment, Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a copy of Letter Showing Official Service List For Parties Filing the Upcoming Legal Briefs In the Matter of Protested Application 80700 National Fish and Wildlife Foundation was served by U.S. mail, (first class), postage prepaid, on January 30, 2012 on the following:

Don Springmeyer,
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Wolf, Rifkin, Shapiro,
Schulman & Rabkin, LLP
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Karen Peterson, Esq.
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s/Juanita Mordhorst

Juanita Mordhorst
Administrative Assistant II
Division of Water Resources
Hearings Section